

Amendment No. 1 to HB0141

Doss
Signature of Sponsor

AMEND Senate Bill No. 172*

House Bill No. 141

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 55, is amended by adding the following new chapter:

55-54-101. This chapter shall be known and may be cited as "The Motor Vehicle Recall and Disclosure Law."

55-54-102. For purposes of this chapter:

(1) "Do-not-drive recall" means a recall notice provided to owners of affected vehicles, pursuant to 49 U.S.C. § 30119, when the vehicle manufacturer, in its consumer precautionary advice section governed by 49 CFR 577.5, unconditionally instructs the owner to stop driving the vehicle until the noncompliance or defect remedy is performed;

(2) "Manufacturer" means any person or entity:

(A) That manufactures or assembles new and unused vehicles; or

(B) That in whole or in part sells or distributes any new and unused motor vehicles to motor vehicle dealers;

(3) "Motor vehicle" means any self-propelled motor-driven vehicle having a gross vehicle weight rating (GVWR) of ten thousand pounds (10,000 lbs.) or less of the type required to be registered and titled under this title and includes both new and used motor vehicles;

(4) "Motor vehicle dealer" or "dealer" means any person or entity not excluded by § 55-17-102(19) who is licensed as such in this state engaged in the business of selling, offering to sell, soliciting, or advertising the sale of motor vehicles, or possessing motor vehicles for the purpose of resale, either on that person's own account or on

Amendment No. 1 to HB0141

Doss
Signature of Sponsor

AMEND Senate Bill No. 172*

House Bill No. 141

behalf of another, either as that person's primary business or incidental to that person's business;

(5) "New motor vehicle" means any self-propelled motor-driven vehicle having a gross vehicle weight rating (GVWR) of ten thousand pounds (10,000 lbs.) or less that has never been the subject of a sale at retail to the general public;

(6) "Recall database" means a database from which an individual may obtain vehicle identification number (VIN) manufacturer's safety recall information relevant to a specific motor vehicle, including, but not limited to, www.safercar.gov;

(7) "Recall database report" means a report, specific to a vehicle that is identified by its vehicle identification number (VIN), containing information obtained from a recall database;

(8) "Sale":

(A) Means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, or mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle, or interest in the motor vehicle, as well as any option, subscription, or other contract, or solicitation looking to a sale, offer, or attempt to sell in any form, whether spoken or written; and

(B) Includes a gift or delivery of any motor vehicle with or as a bonus on account of the sale of anything;

(9) "Stop-sale order" means a notification issued by a manufacturer to its franchised motor vehicle dealers stating that certain used vehicles in inventory shall not be sold or leased, at retail, due to a federal safety recall for a defect or a noncompliance, or a federal emissions recall; and

(10) "Used motor vehicle" means a motor vehicle having a gross vehicle weight rating (GVWR) of ten thousand pounds (10,000 lbs.) or less that has been the subject of a sale at retail to the general public.

55-54-103.

(a) A motor vehicle dealer shall not sell at retail a used motor vehicle until the motor vehicle dealer has obtained a recall database report for the used motor vehicle. The recall database report shall not be older than forty-eight (48) hours prior to the sale of the used motor vehicle. This chapter does not apply to any wholesale transfers of a motor vehicle between dealers licensed in this state, motor vehicle dealers similarly licensed in other states, automobile auctions, and manufacturers.

(b) If a recall database report obtained by a motor vehicle dealer indicates that a used motor vehicle is subject to a do-not-drive recall or a stop-sale order, the dealer shall not sell the used motor vehicle at retail until the do-not-drive or stop-sale recall repair has been made.

(c)

(1) If a recall database report obtained by a dealer indicates that a used motor vehicle is subject to a manufacturer's safety recall other than a used motor vehicle subject to a do-not-drive or stop-sale order that has not been repaired, the dealer shall not sell the used motor vehicle at retail unless the dealer makes the recall repair or both of the following are satisfied:

(A) The dealer discloses the manufacturer's safety recall by providing a copy of the recall database report to the consumer prior to the sale of the used motor vehicle; and

(B) The consumer signs a disclosure acknowledging that the used motor vehicle has a manufacturer's safety recall that has not been repaired.

(2) To comply with subdivision (c)(1)(B), a recall database report that indicates the used motor vehicle is subject to a manufacturer's safety recall and the recall repair has not been made shall be disclosed to the consumer in a document that is signed by the consumer and is separate from the conditional sales contract or other motor vehicle purchase agreement.

(3) The recall database disclosure form required by subdivision (c)(2) shall be provided to the consumer as a separate document, be labeled at the top of the first page with the word "RECALL" in boldface and no smaller than twenty-eight (28) point font size, and contain the following:

DISCLOSURE OF RECALL INFORMATION

VEHICLE: MAKE: _____ MODEL: _____
YEAR: _____ VIN: _____

For your safety we have performed a recall search on the website of the National Highway Traffic Safety Administration (NHTSA) (www.safercar.gov). The results of that search and the date it was performed are attached to this notice.

It is our information that the recall repairs have not been performed.

You must also be aware that the manufacturer of this vehicle may have "campaigns" or "service bulletins" regarding this vehicle that you should check through either www.safercar.gov or the manufacturer's website. The NHTSA website may not be up to date, so you need to periodically check.

Date: _____

Customer: _____

Print Name: _____

Date: _____

Co-Buyer: _____

Print Name: _____

Date: _____

Dealer: _____

Print Name: _____

(4) Compliance with this section shall not be waived by any consumer.

(5) The execution or signing of a Disclosure of Recall Information form by a purchaser of a used motor vehicle and the executed form itself shall not be admitted as evidence in any products liability case against the manufacturer.

55-54-104.

(a) A manufacturer shall compensate its franchised motor vehicle dealers for all labor and parts required by the manufacturer to perform recall repairs. Compensation for recall repairs shall be reasonable. If parts or a remedy are not reasonably available to perform a recall service or repair on a used vehicle held for sale by a dealer authorized to sell and service new vehicles of the same line-make within thirty (30) days of the manufacturer issuing the initial notice of recall, and the national highway traffic safety administration (NHTSA) or the manufacturer has issued a stop-sale or do-not-drive order on the vehicle, the manufacturer shall compensate the dealer at a prorated rate of at least one percent (1%) of the value of the vehicle per month beginning on the date that is thirty (30) days after the date on which the stop-sale or do-not-drive order was provided to the dealer until the earlier of either of the following:

(1) The date the recall or remedy parts are made available; or

(2) The date the dealer sells, trades, or otherwise disposes of the affected used motor vehicle.

(b) The value of a used vehicle shall be the average trade-in value for used vehicles as indicated in an independent third-party guide for the year, make, and model of the recalled vehicle.

(c) This section shall apply only to used vehicles subject to safety or emissions recalls pursuant to and recalled in accordance with federal law and regulations adopted thereunder and where a stop-sale or do-not-drive order has been issued and repair parts or remedy remain unavailable for thirty (30) days or longer. This section further shall apply to franchised motor vehicle dealers holding an affected used vehicle for sale that is a line-make that the dealer is franchised to sell or on which the dealer is authorized to perform recall repairs:

(1) In inventory at the time the stop-sale or do-not-drive order was issued; or

(2) Which was taken in the used vehicle inventory of the dealer as a consumer trade-in incident to the purchase of a new vehicle from the dealer after the stop-sale or do-not-drive order was issued.

(d) It shall be a violation of this chapter for a manufacturer to reduce the amount of compensation otherwise owed to an individual franchised motor vehicle dealer whether through a chargeback, removal of the individual dealer from an incentive program, or reduction in amount owed under an incentive program solely because the franchised motor vehicle dealer has submitted a claim for reimbursement under this section. This subsection (d) shall not apply to an action by a manufacturer that is applied uniformly among all dealers of the same line-make in the state.

(e) All reimbursement claims made by franchised motor vehicle dealers pursuant to this section for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the vehicle is subject to a stop-sale or do-not-drive order shall be subject to the same limitations and requirements as a warranty and sale incentive reimbursement claim pursuant to the rules of the Tennessee motor vehicle commission. In the alternative, a manufacturer may compensate its franchised dealers under a national recall compensation program; provided, that the compensation under

the program is equal to or greater than that provided under subsection (a); or as the manufacturer and dealer may otherwise agree.

(f) A manufacturer may direct the manner and method in which a dealer must demonstrate the inventory status of an affected used motor vehicle to determine eligibility under this section; provided, that the manner and method shall not be unduly burdensome and shall not require information that is unduly burdensome to provide.

(g) Nothing in this section shall require a manufacturer to provide total compensation to a dealer which would exceed the total average trade-in value of the affected used motor vehicle as originally determined under subsection (b).

(h) Any remedy provided to a dealer under this section is exclusive and may not be combined with any other state or federal recall compensation remedy.

55-54-105.

This chapter does not apply to the sale of any vehicle that has been issued a nonrepairable vehicle certificate or salvage title, as defined in § 55-3-211, or any other similar certificate or title issued by another state or jurisdiction.

55-54-106.

Noncompliance with this chapter shall constitute a violation of chapter 17, part 1, of this title.

SECTION 2. This act shall take effect January 1, 2018, the public welfare requiring it.